

MONTANA LEGISLATIVE HISTORY

Chapter 167 19 99

Bill H _____ S _____ Original bill & history ☒ c

H. Committee on Judiciary

Hearing Date(s) 3-4 _____ c

3-5 _____ c

_____ c

_____ c

Date Out 3-5 _____ c

S. Committee on Judiciary

Hearing Date(s) 1-12 _____ c

1-13 _____ c

_____ c

_____ c

Date Out 1-13

Did this bill originate in an interim committee? _____ Yes ☒ No

Committee _____

Report _____

LEGISLATIVE HISTORIES SINCE 1997

The scope and depth of legislative committee minutes varies by year and by committee. If you would like additional information about a hearing, you may want to determine whether the hearing was recorded. In addition, some recent floor debates were also recorded. For information on accessing or purchasing these recordings, contact the Historical Society Archives at 406-444-4774.

If you have concerns regarding the format of the enclosed committee minutes or the recordings of the hearings, it is suggested that you contact your state legislators.

SENATE BILLS AND RESOLUTIONS

55

1/12	Hearing		
1/15	Committee Executive Action--Bill Passed as Amended	12	0
1/15	Committee Report--Bill Passed as Amended		
1/19	2nd Reading Passed	48	0
1/20	3rd Reading Passed	49	1
	Transmitted to House		
2/16	Referred to Fish, Wildlife, and Parks		
3/04	Hearing		
3/26	Committee Executive Action--Bill Concurred as Amended	19	1
3/26	Committee Report--Bill Concurred as Amended		
3/31	2nd Reading Concurred as Amended	86	14
4/01	3rd Reading Concurred	88	11
	Returned to Senate with Amendments		
4/08	2nd Reading House Amendments Not Concurred	50	0
4/09	Conference Committee Appointed		
4/14	Hearing		
4/14	Conference Committee Report Received		
4/15	2nd Reading Conference Committee Report Adopted	48	0
4/16	3rd Reading Conference Committee Report Adopted	50	0
	House		
4/12	Conference Committee Appointed		
4/14	Conference Committee Report Received		
4/17	2nd Reading Conference Committee Report Adopted	90	8
4/19	3rd Reading Conference Committee Report Adopted	93	7
4/20	Sent to Enrolling		
4/21	Returned from Enrolling		
4/21	Signed by President		
4/21	Signed by Speaker		
4/22	Transmitted to Governor		
4/29	Signed by Governor		
5/04	Chapter Number Assigned		
	Chapter Number 533		
	Effective Date: 10/01/2000 - All Sections		

SB 60

Introduced by Halligan

LC0256 Drafter: Lane

Allow District Court Judges to Appoint Standing Masters with Approval of a Governing Body;...

12/15	Introduced		
12/22	Referred to Judiciary		
1/04	1st Reading		
1/04	Fiscal Note Requested		
1/04	Fiscal Note Received		
1/05	Fiscal Note Signed		
1/06	Fiscal Note Printed		
1/12	Hearing		
1/14	Committee Executive Action--Bill Passed as Amended	9	0
1/14	Committee Report--Bill Passed as Amended		
1/16	Revised Fiscal Note Requested		
1/16	Revised Fiscal Note Received		
1/17	Revised Fiscal Note Printed		
1/19	2nd Reading Passed as Amended	46	2
1/20	3rd Reading Passed	50	0

	Transmitted to House		
2/16	Referred to Judiciary		
3/04	Hearing		
3/08	Committee Executive Action--Bill Concurred as Amended	15	3
3/09	Committee Report--Bill Concurred as Amended		
3/13	2nd Reading Concurred	83	15
3/15	3rd Reading Concurred	81	18
	Returned to Senate with Amendments		
3/17	2nd Reading House Amendments Concurred	49	0
3/18	3rd Reading Passed as Amended by House	48	0
3/18	Sent to Enrolling		
3/19	Returned from Enrolling		
3/22	Signed by President		
3/23	Signed by Speaker		
3/23	Transmitted to Governor		
3/24	Signed by Governor		
3/25	Chapter Number Assigned		
	Chapter Number 167		
	Effective Date: 7/01/1999 - All Sections		

SB 61 Introduced by Ellis, et al.

LC0217 Drafter: Bohyer

Submit to the Qualified Electors of Montana an Amendment to Article VIII, Section 3, of the Montana Constitution to Allow Equalization of Property Values for Property Tax Purposes to Be Based on Classification and on Acquisition Values of the General Residential, Commercial, and Industrial Property Class and to Allow Limits to Changes in the Valuation of Certain Property for Tax Purposes, If Provided by Law, to a Maximum of 1 Percent a Year;...

By Request of Interim Property Tax Committee

12/15	Introduced		
12/22	Referred to Taxation		
1/04	1st Reading		
1/11	Hearing		
1/13	Committee Executive Action--Bill Passed as Amended	7	2
1/13	Committee Report--Bill Passed as Amended		
1/15	2nd Reading Passed	29	21
1/16	3rd Reading Passed	29	20
	Transmitted to House		
1/19	Referred to Taxation		
2/02	Hearing		
4/07	Tabled in Committee		
	Died in Standing Committee		

SB 62 Introduced by Keenan

LC0233 Drafter: Niss

Extend from January 1, 2001, to October 1, 2001, the Termination Date of the Pilot Project Testing the Use of Medical Savings Accounts in Conjunction with the Montana Medicaid Program;...

By Request of Department of Public Health and Human Services

12/17	Introduced		
1/04	1st Reading		
1/04	Referred to Public Health, Welfare and Safety		

SENATE BILL NO. 60

INTRODUCED BY HALLIGAN M

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING DISTRICT COURT JUDGES TO APPOINT STANDING MASTERS; REQUIRING COMPENSATION OF STANDING MASTERS TO BE PAID BY THE COUNTIES; SUPERSEDING THE UNFUNDED MANDATE LAWS; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Standing masters -- appointment and removal -- compensation -- qualifications. (1) A district court may appoint a standing master. The standing master serves at the pleasure of the district court and may be removed by the appointing judge. The compensation to be paid to a standing master must be set by the appointing judge and must be paid by the counties served by the district court.

(2) A standing master must be admitted to practice law in Montana for at least 3 years prior to the date of appointment and must be a member of good standing of the state bar of Montana.

NEW SECTION. Section 2. Standing masters -- reference -- powers. (1) A reference to a standing master must be made at the judge's discretion or by standing order of the district court.

(2) (a) The order of reference to the standing master may specify or limit the standing master's powers and may direct the standing master to present findings of fact and conclusions of law upon particular issues. Subject to the specifications and limitations stated in the order, the standing master shall regulate all proceedings in every hearing before the standing master and implement measures necessary for the efficient performance of the standing master's duties under the order.

(b) The standing master may:

(i) require the production of evidence upon all matters embraced in the reference, including the production of all books, papers, vouchers, documents, and writings that are applicable;

(ii) rule upon the admissibility of evidence unless otherwise directed by the order of reference;

(iii) put witnesses on oath and examine them;

(iv) call the parties to the action and examine them on oath; and

1 (v) issue temporary orders that are subject to review by the district court, upon objection by a
2 party to the action.

3 (c) The standing master shall make a record of the evidence offered and excluded in the same
4 manner and subject to the same limitations as provided in the Montana Rules of Evidence for a court
5 sitting without a jury. Audio and video recordings are acceptable means of record so long as a master
6 recording is properly preserved and can be transcribed for district court and appellate review.

7
8 NEW SECTION. **Section 3. Standing masters -- proceedings -- meetings -- witnesses --**
9 **statements of account.** (1) When a reference is made, the clerk shall immediately furnish the standing
10 master with a copy of the order of reference. Unless the order of reference otherwise provides, the
11 standing master shall set a time and place for the first meeting of the parties or their attorneys to be held
12 within 20 days after the date of the order of reference and shall notify the parties or their attorneys. The
13 standing master shall proceed with all reasonable diligence. Either party, on notice to the parties and
14 standing master, may apply to the court for an order requiring the standing master to speed the
15 proceedings and to make the report. If a party fails to appear at the time and place appointed, the
16 standing master may proceed ex parte or, in the standing master's discretion, adjourn the proceedings
17 to a future day, giving notice to the absent party of the adjournment.

18 (2) The parties may procure the attendance of witnesses before the standing master by the
19 issuance and service of subpoenas as provided in Rule 45 of the Montana Rules of Civil Procedure. If,
20 without adequate excuse, a witness fails to appear or give evidence, the witness may be punished for
21 a contempt and be subjected to the consequences, penalties, and remedies provided in Rules 37 and 45
22 of the Montana Rules of Civil Procedure.

23 (3) When matters of accounting are in issue before the standing master, the standing master may
24 prescribe the form in which the accounts must be submitted and may require or receive in evidence a
25 statement by a certified public accountant who is called as a witness. Upon objection of a party to any
26 of the items submitted or upon a showing that the form of statement is insufficient, the standing master
27 may require a different form of statement to be furnished or the accounts or specific items to be proved
28 by oral examination of the accounting parties or upon written interrogatories or in such other manner as
29 the standing master directs.
30

1 **NEW SECTION. Section 4. Standing masters -- findings of fact and conclusions of law -- orders**
2 **-- contents and filing -- review -- stipulations as to findings.** (1) Subject to the order of reference, the
3 standing master shall submit findings of fact and conclusions of law, following a hearing upon the matters
4 submitted to the standing master by the order of reference. When a hearing is not required, the standing
5 master shall submit an order upon the matters submitted to the standing master by the order of reference.
6 The standing master shall file the findings and conclusions or order with the clerk of the court and serve
7 copies on all parties. All contested proceedings before the standing master must be recorded. The
8 standing master shall, at the expense of the district court, file a recording of the proceedings and of the
9 evidence and the original exhibits. The cost of the preparation of a duplicate of the recording is the
10 responsibility of the objecting party. The objecting party shall serve a copy of the duplicate recording on
11 adverse parties at the objecting party's expense.

12 (2) Within 10 days after being served with notice of the filing of the findings and conclusions or
13 order, any party may serve written specific objections upon the other parties or may apply to the court
14 for an extension to serve. Application to the court for action upon the findings and conclusions or order
15 and upon the filing of specific objections to the findings and conclusions or order must be by motion and
16 upon notice as prescribed in Rule 6(d) of the Montana Rules of Civil Procedure. The court, after a hearing,
17 may adopt the findings and conclusions or order and may modify, reject in whole or in part, receive further
18 evidence, or recommit the findings and conclusions or order with instructions.

19 (3) The effect of a standing master's report is the same whether or not the parties have
20 consented to the reference, but when the parties stipulate that a standing master's findings of fact are
21 final, only questions of law arising upon the findings and conclusions may be considered.

22
23 **NEW SECTION. Section 5. Unfunded mandate law superseded.** The provisions of [this act]
24 expressly supersede and modify the requirements of 1-2-112 through 1-2-116.

25
26 **NEW SECTION. Section 6. Codification instruction.** [Sections 1 through 4] are intended to be
27 codified as an integral part of Title 3, chapter 5, part 1, and the provisions of Title 3, chapter 5, part 1,
28 apply to [sections 1 through 4].

29
30 **NEW SECTION. Section 7. Effective date.** [This act] is effective July 1, 1999.

31 - END -

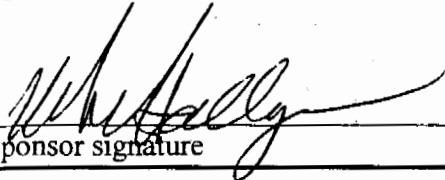
FISCAL NOTE

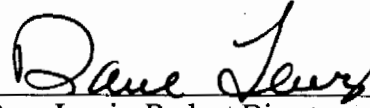
Bill #: SB0060

Title: Allow District Courts to appoint standing masters

Primary Sponsor: Mike Halligan

Status: As introduced

 1/5/99
Sponsor signature Date

 1-4-99
Dave Lewis, Budget Director Date

Fiscal Summary

	FY2000 Difference	FY2001 Difference
Expenditures:		
General Fund	\$596,960	\$545,285
Revenue:	\$0	\$0
Net Impact on General Fund Balance:	\$596,960	\$545,285

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
X		Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

1. Compensation that would be paid to a standing master will differ from district to district.
2. The county will pay all expenses incurred by the standing master.
3. Of the 37 district court judges, 11 do not have law clerks. These 11 districts will hire law clerks to reduce their caseloads before considering hiring standing masters.
4. Of the remaining 28 districts, 13 districts may hire standing masters.
5. Entry level salary may range from \$30,000 - \$35,000 each year plus 25% benefits. This is 40% to 47% of a judge's salary.
6. Computer, printer, recorder, and network access expenses will cost \$5,295 initially for each position and \$1,320 for the second and future years.

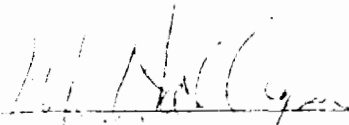
FISCAL NOTE

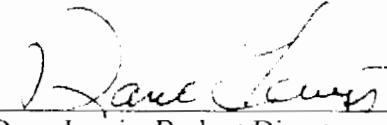
Bill #: SB0060

Title: Allow District Courts to appoint standing masters

Primary Sponsor: Mike Halligan

Status: Second reading/revised


Sponsor signature _____ Date _____

 1-15-99
Dave Lewis, Budget Director _____ Date _____

Fiscal Summary

	<u>FY2000 Difference</u>	<u>FY2001 Difference</u>
Expenditures:		
General Fund	\$0	\$0
Revenue:	\$0	\$0
Net Impact on General Fund Balance:	\$0	\$0

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
X		Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

1. Compensation that would be paid to a standing master will differ from district to district.
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4. Of the remaining 28 districts, 13 districts may hire standing masters.
5. Entry level salary may range from \$30,000 - \$35,000 each year plus 25% benefits. This is 40% to 47% of a judge's salary.
6. Computer, printer, recorder, and network access expenses will cost \$5,295 initially for each position and \$1,320 for the second and future years.
7. There will be only one standing master per judge.

SB 60 #2

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on January 12, 1999 at 9:00 A.M., in Room 325 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Duane Grimes (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter McNutt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Judy Keintz, Committee Secretary
Valencia Lane, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 60, SB 124, SB 152,
1/9/1999
Executive Action: SB 24

HEARING ON SB 124

Sponsor: SEN. TOM BECK, SD 28, Deer Lodge

Proponents: Dan Anderson, Administrator of the Addictive and Mental Disorders Division, Department of Public Health and Human Services

HEARING ON SB 60

Sponsor: SEN. HALLIGAN, SD 34, Missoula

Proponents: Ed McLean, Missoula District Court Judge
Al Smith, Montana Trial Lawyers Assoc.

Opponents: Jane Jelinski, Montana Association of Counties

Opening by Sponsor:

SEN. HALLIGAN, SD 34, Missoula, provided a copy of Rule 53, EXHIBIT(jus08a04). He added that SB 60 attempts to codify the existing rule that allows the appointment of standing masters. There is some concern of the potential fiscal impact on local governments. In issues such as irrigation, family law, tax law, workers' compensation, etc., courts need the ability to appoint a standing master to address these issues.

Proponents' Testimony:

Ed McLean, Missoula District Court Judge, remarked that in the early 1990s there was approximately a two year wait in Missoula County for a contested divorce to be heard. When he assumed the bench, he appointed a special master to help clear up the domestic relations calendar. It now takes 90 to 120 days to bring a contested domestic relations matter to a conclusion. The benefits of the program is that it takes into account the primary interests of the child by addressing the family turmoil. The focus is on the family needs and getting the anguish of the domestic dispute behind the parties. It is not the intent of this legislation to put any unfunded mandates to the county commissioners. They are agreeable to a requirement that if such a position were created, it would be done with an agreement of the county commissioners.

Judge Larson uses his standing master to help with mental health problems and preliminary criminal matters. Most of the judges who utilize a special or standing master do so in the areas of domestic relations. This has greatly alleviated their calendar and will delay the need for an additional judge in the future.

Al Smith, Montana Trial Lawyers Assoc., rose in support of SB60. He attested that his bill will benefit the individual Montana citizens and businesses who end up in court. The longer the delay in setting a trial date, the more stress that is imposed upon the parties.

Opponents' Testimony:

Jane Jelinski, Montana Association of Counties (MACo), stated that the legislation is a good idea but the potential unfunded mandate requirement is not acceptable to counties. The fiscal note states that the judge would confer with the commissioners about the budget but the proposed legislation simply states that this must be paid for by the counties served by the district courts.

{Tape : 1; Side : A; Approx. Time Counter : 9.37}

Questions from Committee Members and Responses:

SEN. JABS remarked that the language in the legislation did not provide that the judge needed to receive approval from the county commissioners for payment of a standing master. **SEN. HALLIGAN** responded that the language states that payment is to be made by the county served by the district court. It doesn't state that there needs to be an agreement. They would be interested in addressing MACo's concern about whether a judge could order this without an agreement from the county commissioners.

SEN. JABS questioned whether this would involve only one person being appointed as a standing master. **Judge McLean** stated that they use one person as a standing master.

SEN. JABS stated that there are three judicial districts that have a caseload of over 1300 cases per judge. There is legislation for additional judges in these districts. He questioned whether a district with a smaller caseload would use a standing master. **SEN. HALLIGAN** stated that Ravalli County is looking into asking for a new judge. Judge Lankton has indicated that with a standing master he could relieve a tremendous amount of the caseload.

CHAIRMAN GROSFIELD remarked that language in Section 5 of the bill stated that the unfunded mandate was superceded. The unfunded mandate statute, Section 1-2-114, states that a bill may not be introduced enacting a new law requiring direct expenditure for local government without a specific means to finance the activity. **Ms. Lane** stated that this section is referred to as the Drake Amendment. Last session new requirements were added and one of the requirements is that a bill cannot be introduced that would create unfunded mandates unless funding to cover the cost is provided in the bill. There is an exception which states

that the legislation can provide that this requirement is being superceded. That is why the language is contained in this bill.

CHAIRMAN GROSFIELD further remarked that the fiscal note stated that 13 districts may hire standing masters. He questioned whether that was a realistic number. **SEN. HALLIGAN** responded that he disagreed with the fiscal note. A potential amendment would allow the concurrence of the county commissioners and then a fiscal note would not be needed. **Judge McLean** explained that the Governor's Office requested information from various districts and the fiscal note reflects the counties that expressed an immediate interest in utilizing a standing master. He added that there has been a study which has indicated that three areas need an additional district judge. This legislation is intended to curb the future needs but does not address the three proposed judges. This would give relief in the areas with heavier caseloads.

CHAIRMAN GROSFIELD questioned whether an amendment that would make this subject to the approval of the county commissioners would address the concerns of MACo. **Ms. Jelinski** stated that MACo could support the bill if that provision was inserted.

SEN. BARTLETT remarked that Rule 53, under the appointment of compensation of masters, indicates that the compensation for those persons could be charged to the parties of the cases that are referred. She asked **Judge McLean** if this was the process in Missoula County. **Judge McLean** explained that their standing master is a full-time county employee and is paid by the county.

SEN. BARTLETT questioned whether he would have any objection to having the county charge the parties involved for the use of a standing master. **Judge McLean** stated that is a feasible way to fund the program. It could also be used as a portion of the funding.

Closing by Sponsor:

SEN. HALLIGAN remarked that with respect to having the parties involved pay for a standing master, most of his clients couldn't afford this. Rule 53 is comprehensive with respect to the appointment of special masters and standing masters. When the Supreme Court was asked about the need for this bill, they preferred that it was in statute. Reducing delays in the trauma associated with court actions is absolutely critical.

{Tape : 1; Side : B; Approx. Time Counter : 9.54}

HEARING ON SB 152

DATE _____

DATE _____

[illegible]

DATE 1-12-99

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: S.B. 60-124-152

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PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
Ed McLean	District Judges	60	✓	
May Phappis	Ill. Assn. Clerks of Dist. Ct.	60	I	
Chert Schuman	—	152		
Doug Waldron	Mt. Rural Ed. Assn.	152		✓
Rose Frazin	S Am	152		✓
Kathy Collins	Self	152	✓	
Eric Jean	MEA/MFT	152		✓
Jane Jelniski	MA Co	51360		✓
Rebecca Moog	MWL	152		✓
Heleen Bruberg	Concerned Citizens TE	152	✓	
R. Sue Howeth	Self	152	✓	
Suzanne Crawford	Self	152	✓	
Steve Witten	MT Com. H. 100	152	X	
Alexandra Volkerts	MT Advocacy Program	124		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 1-17-99

SENATE COMMITTEE ON JUDICIARY

BILLS BEING HEARD TODAY: SB 60 ~ 124 ~ 152

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PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
Laure Kautuk	Christian Coalition of MT	SB 152	✓	
Anette Rundesh	Eagle Forum	SB 152	✓	
LANE MELTON	MSBA	SB 152		X
Geraldine Driscoll	OPI	SB 152		X
Sam Butler	MNA	124	✓	
Al Smith	MTLA	SB 60	X	
Christine Kaufmann	MHRN	SB 152		X
Fredy Ortiz	MT Juvenile Probation Office	SB 152		X
Ed McLean	State Auditor	SB 152		✓
Bob Vogel	MSBA / HHSN DIST. 1	152		X
Charles Brooks	Yellowstone County	SB 60		X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN LORENTS GROSFIELD** on January 13, 1999
at 9:00 A.M., in Room 108 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter McNutt (R)
Sen. Duane Grimes (R)
Sen. Mike Halligan (D)
Sen. Steve Doherty (D)
Sen. Sue Bartlett (D)

Members Excused: None.

Members Absent: None.

Staff Present: Valencia Lane, Legislative Branch
Jodi Pauley, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 158, 1/8/1999; SB 165,
1/8/1999
Executive Action: SB 8; SB 20; SB 54; SB 60;
SB 63

HEARING ON SB 158

Sponsor: SENATOR BILL GLASER, SD 8, Huntley

Proponents:

Brenda Nordland, MT Department of Justice

Right now incest is a crime even with consenting people over 16. She said of the 900 they have on the registry only 75 are incest offenders.

CHAIRMAN GROSFIELD asked if incest between a 17 year old and a 20 year old would not have to have lifetime registration. **Beth Baker** said that was correct.

Vote: Motion carried unanimously 9-0.

EXECUTIVE ACTION ON SB 60

Motion: SEN. HALLIGAN moved that AMENDMENTS FOR SB 60 BE ADOPTED. EXHIBIT(jus09a15)

Discussion:

SEN HALLIGAN explained the amendments. (EXHIBIT 15)

Vote: Motion carried unanimously 9-0.

Motion: SEN. HALLIGAN moved that SB 60 DO PASS AS AMENDED.

Discussion:

SEN. HALLIGAN said this will lessen the need for district court judges and a special master can manage case loads that a judge cannot handle. It can be a permanent or temporary position to deal with certain issues. The county commissioners can grant \$20,000 over the entire year to deal with standing masters and they don't have to spend it if they don't want to.

SEN. MCNUTT said judges can set the wage and they tend to be real liberal on what they spend. SEN. HALLIGAN said they would have to pay according to the pay plan in the county.

SEN. HOLDEN asked for clarification on the fiscal note. SEN. HALLIGAN said it is at the discretion of the county commissioners, they do not have to do this at all and it takes the fiscal note out of the bill.

SEN. HOLDEN said once a county employee is on board, it is very difficult to release them. If there is a work load problem, why not hire clerical staff that would make cases go through faster.

SEN. HALLIGAN said it is the judges that deal with these cases, not the clerical staff.

SEN. HOLDEN asked if they could put an amendment to have the governing body of the county decide if they want to do this.

Valencia Lane said they are talking about imposing criminal laws that have a due process and equal protection concerns. What they are talking about here is with permission of the county, they will accept these costs. This is not a delegation of legislative authority.

SEN. HALLIGAN said if the county is cutting budgets the last person hired will be out the door.

Vote: Motion carried 6-1 with **SEN. HOLDEN** voting no.

DATE _____

DATE _____

1/13/99

[illegible]

Amendments to Senate Bill No. 60
1st Reading Copy

Requested by Senator Mike Halligan

For the Senate Judiciary Committee

Prepared by Valencia Lane
January 13, 1999

1. Title, line 5.

Following: "MASTERS"

Insert: "WITH APPROVAL OF A GOVERNING BODY"

2. Page 1, line 11.

Following: "(1)"

Strike: "A"

Insert: "With approval of the governing body of the county or the
consolidated city-county government, a"

- END -



SENATE STANDING COMMITTEE REPORT

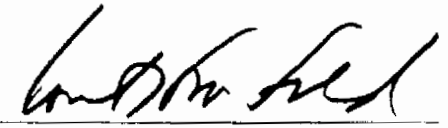
January 13, 1999

Page 1 of 1

Mr. President:

We, your committee on **Judiciary** report that **Senate Bill 60** (first reading copy -- white) do pass as amended.

Signed:


Senator Lorents Grosfield, Chair

And, that such amendments read:

1. Title, line 5.

Following: "MASTERS"

Insert: "WITH APPROVAL OF A GOVERNING BODY"

2. Page 1, line 11.

Following: "(1)"

Strike: "A"

Insert: "With approval of the governing body of the county or counties served by the district court or with the approval of a consolidated city-county government, a"

- END -

Committee Vote:

Yes 9, No 0.

091648SC.sjo

SENATE BILL NO. 60
INTRODUCED BY M. HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING DISTRICT COURT JUDGES TO APPOINT STANDING MASTERS WITH APPROVAL OF A GOVERNING BODY; REQUIRING COMPENSATION OF STANDING MASTERS TO BE PAID BY THE COUNTIES; ~~SUPERSEDING THE UNFUNDED MANDATE LAWS~~; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Standing masters -- appointment and removal -- compensation -- qualifications. (1) ~~A~~ WITH APPROVAL OF THE GOVERNING BODY OF THE COUNTY OR COUNTIES SERVED BY THE DISTRICT COURT OR WITH THE APPROVAL OF A CONSOLIDATED CITY-COUNTY GOVERNMENT, A district court may appoint a standing master. The standing master serves at the pleasure of the district court and may be removed by the appointing judge. The compensation to be paid to a standing master must be set by the appointing judge and must be paid by the counties served by the district court.

(2) A standing master must be admitted to practice law in Montana for at least 3 years prior to the date of appointment and must be a member of good standing of the state bar of Montana.

NEW SECTION. Section 2. Standing masters -- reference -- powers. (1) A reference to a standing master must be made at the judge's discretion or by standing order of the district court.

(2) (a) The order of reference to the standing master may specify or limit the standing master's powers and may direct the standing master to present findings of fact and conclusions of law upon particular issues. Subject to the specifications and limitations stated in the order, the standing master shall regulate all proceedings in every hearing before the standing master and implement measures necessary for the efficient performance of the standing master's duties under the order.

(b) The standing master may:

(i) require the production of evidence upon all matters embraced in the reference, including the production of all books, papers, vouchers, documents, and writings that are applicable;

(ii) rule upon the admissibility of evidence unless otherwise directed by the order of reference;

1 (iii) put witnesses on oath and examine them;

2 (iv) call the parties to the action and examine them on oath; and

3 (v) issue temporary orders that are subject to review by the district court, upon objection by a
4 party to the action.

5 (c) The standing master shall make a record of the evidence offered and excluded in the same
6 manner and subject to the same limitations as provided in the Montana Rules of Evidence for a court
7 sitting without a jury. Audio and video recordings are acceptable means of record so long as a master
8 recording is properly preserved and can be transcribed for district court and appellate review.

9
10 NEW SECTION. Section 3. Standing masters -- proceedings -- meetings -- witnesses --
11 statements of account. (1) When a reference is made, the clerk shall immediately furnish the standing
12 master with a copy of the order of reference. Unless the order of reference otherwise provides, the
13 standing master shall set a time and place for the first meeting of the parties or their attorneys to be held
14 within 20 days after the date of the order of reference and shall notify the parties or their attorneys. The
15 standing master shall proceed with all reasonable diligence. Either party, on notice to the parties and
16 standing master, may apply to the court for an order requiring the standing master to speed the
17 proceedings and to make the report. If a party fails to appear at the time and place appointed, the
18 standing master may proceed ex parte or, in the standing master's discretion, adjourn the proceedings
19 to a future day, giving notice to the absent party of the adjournment.

20 (2) The parties may procure the attendance of witnesses before the standing master by the
21 issuance and service of subpoenas as provided in Rule 45 of the Montana Rules of Civil Procedure. If,
22 without adequate excuse, a witness fails to appear or give evidence, the witness may be punished for
23 a contempt and be subjected to the consequences, penalties, and remedies provided in Rules 37 and 45
24 of the Montana Rules of Civil Procedure.

25 (3) When matters of accounting are in issue before the standing master, the standing master may
26 prescribe the form in which the accounts must be submitted and may require or receive in evidence a
27 statement by a certified public accountant who is called as a witness. Upon objection of a party to any
28 of the items submitted or upon a showing that the form of statement is insufficient, the standing master
29 may require a different form of statement to be furnished or the accounts or specific items to be proved
30 by oral examination of the accounting parties or upon written interrogatories or in such other manner as

1 the standing master directs.

2
3 NEW SECTION. Section 4. Standing masters -- findings of fact and conclusions of law -- orders
4 -- contents and filing -- review -- stipulations as to findings. (1) Subject to the order of reference, the
5 standing master shall submit findings of fact and conclusions of law, following a hearing upon the matters
6 submitted to the standing master by the order of reference. When a hearing is not required, the standing
7 master shall submit an order upon the matters submitted to the standing master by the order of reference.
8 The standing master shall file the findings and conclusions or order with the clerk of the court and serve
9 copies on all parties. All contested proceedings before the standing master must be recorded. The
10 standing master shall, at the expense of the district court, file a recording of the proceedings and of the
11 evidence and the original exhibits. The cost of the preparation of a duplicate of the recording is the
12 responsibility of the objecting party. The objecting party shall serve a copy of the duplicate recording on
13 adverse parties at the objecting party's expense.

14 (2) Within 10 days after being served with notice of the filing of the findings and conclusions or
15 order, any party may serve written specific objections upon the other parties or may apply to the court
16 for an extension to serve. Application to the court for action upon the findings and conclusions or order
17 and upon the filing of specific objections to the findings and conclusions or order must be by motion and
18 upon notice as prescribed in Rule 6(d) of the Montana Rules of Civil Procedure. The court, after a hearing,
19 may adopt the findings and conclusions or order and may modify, reject in whole or in part, receive further
20 evidence, or recommit the findings and conclusions or order with instructions.

21 (3) The effect of a standing master's report is the same whether or not the parties have
22 consented to the reference, but when the parties stipulate that a standing master's findings of fact are
23 final, only questions of law arising upon the findings and conclusions may be considered.

24
25 ~~NEW SECTION. Section 5. Unfunded mandate law superseded. The provisions of [this act]~~
26 ~~expressly supersede and modify the requirements of 1-2-112 through 1-2-116.~~

27
28 NEW SECTION. Section 5. Codification instruction. [Sections 1 through 4] are intended to be
29 codified as an integral part of Title 3, chapter 5, part 1, and the provisions of Title 3, chapter 5, part 1,
30 apply to [sections 1 through 4].

1

2

NEW SECTION. Section 6. Effective date. [This act] is effective July 1, 1999.

3

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN ROBERT C. CLARK**, on March 4, 1999 at 8:00 A.M., in Room 312 - 1 Capitol.

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Dan McGee, Vice Chairman (R)
Rep. Diana Wyatt, Vice Chairman (D)
Rep. Chris Ahner (R)
Rep. Shiell Anderson (R)
Rep. Paul Clark (D)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Joan Hurdle (D)
Rep. Rick Jore (R)
Rep. Sam Kitzenberg (R)
Rep. Brad Molnar (R)
Rep. Mark Noennig (R)
Rep. Jim Shockley (R)
Rep. Loren Soft (R)
Rep. Carol Williams (D)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Pam Schindler, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 87, SB 60, SB 112, SB 158,
3/1/1999

Executive Action: None

HEARING ON SB 87

Sponsor:

Senator Hargrove presented SB 87.

{Tape : 1; Side : A; Approx. Time Counter : 25 - 52}

Proponents:

Ken Hoovestall, Montana Snowmobiler Association

{Tape : 1; Side : A; Approx. Time Counter : 52 - 77}

EXHIBIT(juh49a01)

Bob Lane, Fish Wildlife and Parks

{Tape : 1; Side : A; Approx. Time Counter : 77 - 129}

Al Smith, Montana Trial Lawyers Association

{Tape : 1; Side : A; Approx. Time Counter : 129 - 155}

Opponents:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 155 - 550}

{Tape : 1; Side : B; Approx. Time Counter : 0 - 133}

Closing by Sponsor:

Senator Hargrove made closing statements.

{Tape : 1; Side : B; Approx. Time Counter : 133 - 183}

HEARING ON SB 60

Sponsor:

Senator Hargrove presented SB 60.

{Tape : 1; Side : B; Approx. Time Counter : 183 - 218}

Proponents:

Ed McLean, District Court Judge, Missoula

{Tape : 1; Side : B; Approx. Time Counter : 218 - 291}

Al Smith, Montana Trial Lawyers Association

{Tape : 1; Side : B; Approx. Time Counter : 291 - 317}

Opponents:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 317 - 550}

{Tape : 2; Side : A; Approx. Time Counter : 0 - 155}

Closing by Sponsor:

Senator Halligan made closing statements.

{Tape : 2; Side : A; Approx. Time Counter : 155 - 190}

HEARING ON SB 112

Sponsor:

Senator E. Franklin presented SB 112.

{Tape : 2; Side : A; Approx. Time Counter : 190 - 247}

Proponents:

Bill Unger, State Crime Lab

{Tape : 2; Side : A; Approx. Time Counter : 247 - 343}

EXHIBIT(juh49a0

2)

Opponents:

None

Informational Testimony:

HOUSE OF REPRESENTATIVE ROLL CALL

JUDICIARY

COMMITTEE

DATE 3/4/99

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
Robert C. Clark, chair	/		
Dan McGee, vice chair	/		
Diana Wyatt, vice chair	/		
Chris Ahner	/		
Shiell Anderson	/		
Paul Clark	/		
Aubyn A. Curtiss	/		
Bill Eggers	/		
Tom Facey	/		
Steven Gallus	/		
Gail Gutsche	/		
Joan Hurdle	/		
Rick Jore	/		
Sam Kitzenberg	/		
Brad Molnar	/		
Mark Noenning	/		
Jim Shockley	/		
Loren Soft	/		
Carol Williams	/		
Cindy Younkin	/		

484

DATE 3/4/99

SPONSOR(S) Mike Holligan

PLEASE PRINT

**PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.**

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN ROBERT C. CLARK**, on March 5, 1999 at 8:00 A.M., in Room 312 - 1 Capitol.

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Dan McGee, Vice Chairman (R)
Rep. Diana Wyatt, Vice Chairman (D)
Rep. Shiell Anderson (R)
Rep. Paul Clark (D)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Joan Hurdle (D)
Rep. Rick Jore (R)
Rep. Sam Kitzenberg (R)
Rep. Brad Molnar (R)
Rep. Mark Noennig (R)
Rep. Jim Shockley (R)
Rep. Loren Soft (R)
Rep. Cindy Younkin (R)

Members Excused: Rep. Chris Ahner (R)

Members Absent: Rep. Carol Williams (D)

Staff Present: John MacMaster, Legislative Branch
Pam Schindler, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 186, SB 188, SB 201, SB 191, 2/18/1999
Executive Action: SB 191-Be Concurred In, SB 201-Be Concurred In, SB 188-

{Tape : 2; Side : B; Approx. Time Counter : 131 - 999}

EXECUTIVE ACTION ON SB 201

Motion/Vote: REP. YOUNKIN moved that SB 201 BE CONCURRED IN.
Motion carried 12-0.

(Reps. Ahner, Eggers, Gallus, Gutsche, Kitzenberg, Molnar, Soft
and Williams absent during voting)

{Tape : 2; Side : B; Approx. Time Counter : 173 - 182}

EXECUTIVE ACTION ON SB 188

Motion/Vote: REP. SHOCKLEY moved that SB 188 BE CONCURRED IN.
Motion carried 12-1, with Hurdle voting no

(Reps. Ahner, Gallus, Gutsche, Kitzenberg, Molnar, soft, Williams
absent during voting.)

{Tape : 2; Side : B; Approx. Time Counter : 182 - 248}

EXECUTIVE ACTION ON SB 186

Motion: REP. ANDERSON moved that SB 186 BE CONCURRED IN.
Rep. Anderson later withdrew his motion; postponed to a late
date.

{Tape : 2; Side : B; Approx. Time Counter : 248 - 456}

EXECUTIVE ACTION ON SB 60

Motion: REP. FACEY moved that SB 60 BE CONCURRED IN.

Motion/Vote: REP. NOENNIG moved that SB 60 BE AMENDED. Motion
carried 15-0.

(Reps. Ahner, Gutsche, Soft, Molnar, Williams absent during
voting.)

Motion/Vote: REP. NOENNIG moved that SB 60 BE CONCURRED IN AS
AMENDED. Motion carried 15-3 with Clark, Jore, and McGee voting
no.

(Reps. Molnar and Ahner absent during voting.)

{Tape : 3; Side : A; Approx. Time Counter : 0 - 370}

HOUSE OF REPRESENTATIVE ROLL CALL

JUDICIARY

COMMITTEE

DATE 3/5/99

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
Robert C. Clark, chair	/		
Dan McGee, vice chair	/		
Diana Wyatt, vice chair	/		
Chris Ahner			/
Shiell Anderson	/		
Paul Clark	/		
Aubyn A. Curtiss	/		
Bill Eggers	/		
Tom Facey	/		
Steven Gallus	/		
Gail Gutsche	/		
Jean Hurdle	/		
Rick Jore	/		
Sam Kitzenberg	/		
Brad Molnar	/		
Mark Noenning	/		
Jim Shockley	/		
Loren Soft	/		
Carol Williams	/	/	
Cindy Younkin	/		

HOUSE OF REPRESENTATIVES COMMITTEE PROXY

DATE

5 Mar
~~Feb~~ 99

I request to be excused from the Judiciary
Committee meeting this date because of other commitments. I desire
to leave my proxy vote with Dan Mabe.

Indicate Bill Number and your vote Aye or No. If there are
amendments, list them by name and number under the bill and
indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT	AYE	NO
<i>45</i>		

SENATE BILL/AMENDMENT	AYE	NO
<i>60</i>	<i>X</i>	

Rep. 

(Signature)

HR:1993
WP/PROXY



HOUSE STANDING COMMITTEE REPORT

March 8, 1999

Page 1 of 1

Mr. Speaker:

We, your committee on **Judiciary** report that **Senate Bill 60** (third reading copy -- blue) be concurred in as amended.

Signed: Robert C. Clark
Representative Robert C. Clark, Chair

To be carried by Representative Diana Wyatt

And, that such amendments read:

1. Page 1, line 14.

Strike: "a standing master. The"

Insert: "one or more standing masters. A"

- END -

Committee Vote:
Yes 15, No 3.

521514SC.ham

3/8 umg
2:25



AN ACT ALLOWING DISTRICT COURT JUDGES TO APPOINT STANDING MASTERS WITH APPROVAL OF A GOVERNING BODY; REQUIRING COMPENSATION OF STANDING MASTERS TO BE PAID BY THE COUNTIES; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Standing masters -- appointment and removal -- compensation -- qualifications. (1)

With approval of the governing body of the county or counties served by the district court or with the approval of a consolidated city-county government, a district court may appoint one or more standing masters. A standing master serves at the pleasure of the district court and may be removed by the appointing judge. The compensation to be paid to a standing master must be set by the appointing judge and must be paid by the counties served by the district court.

(2) A standing master must be admitted to practice law in Montana for at least 3 years prior to the date of appointment and must be a member of good standing of the state bar of Montana.

Section 2. Standing masters -- reference -- powers. (1) A reference to a standing master must be made at the judge's discretion or by standing order of the district court.

(2) (a) The order of reference to the standing master may specify or limit the standing master's powers and may direct the standing master to present findings of fact and conclusions of law upon particular issues. Subject to the specifications and limitations stated in the order, the standing master shall regulate all proceedings in every hearing before the standing master and implement measures necessary for the efficient performance of the standing master's duties under the order.

(b) The standing master may:

(i) require the production of evidence upon all matters embraced in the reference, including the production of all books, papers, vouchers, documents, and writings that are applicable;

(ii) rule upon the admissibility of evidence unless otherwise directed by the order of reference;

- (iii) put witnesses on oath and examine them;
- (iv) call the parties to the action and examine them on oath; and
- (v) issue temporary orders that are subject to review by the district court, upon objection by a party to the action.

(c) The standing master shall make a record of the evidence offered and excluded in the same manner and subject to the same limitations as provided in the Montana Rules of Evidence for a court sitting without a jury. Audio and video recordings are acceptable means of record so long as a master recording is properly preserved and can be transcribed for district court and appellate review.

Section 3. Standing masters -- proceedings -- meetings -- witnesses -- statements of account.

(1) When a reference is made, the clerk shall immediately furnish the standing master with a copy of the order of reference. Unless the order of reference otherwise provides, the standing master shall set a time and place for the first meeting of the parties or their attorneys to be held within 20 days after the date of the order of reference and shall notify the parties or their attorneys. The standing master shall proceed with all reasonable diligence. Either party, on notice to the parties and standing master, may apply to the court for an order requiring the standing master to speed the proceedings and to make the report. If a party fails to appear at the time and place appointed, the standing master may proceed ex parte or, in the standing master's discretion, adjourn the proceedings to a future day, giving notice to the absent party of the adjournment.

(2) The parties may procure the attendance of witnesses before the standing master by the issuance and service of subpoenas as provided in Rule 45 of the Montana Rules of Civil Procedure. If, without adequate excuse, a witness fails to appear or give evidence, the witness may be punished for a contempt and be subjected to the consequences, penalties, and remedies provided in Rules 37 and 45 of the Montana Rules of Civil Procedure.

(3) When matters of accounting are in issue before the standing master, the standing master may prescribe the form in which the accounts must be submitted and may require or receive in evidence a statement by a certified public accountant who is called as a witness. Upon objection of a party to any of the items submitted or upon a showing that the form of statement is insufficient, the standing master may require a different form of statement to be furnished or the accounts or specific items to be proved

by oral examination of the accounting parties or upon written interrogatories or in such other manner as the standing master directs.

Section 4. Standing masters -- findings of fact and conclusions of law -- orders -- contents and filing -- review -- stipulations as to findings. (1) Subject to the order of reference, the standing master shall submit findings of fact and conclusions of law, following a hearing upon the matters submitted to the standing master by the order of reference. When a hearing is not required, the standing master shall submit an order upon the matters submitted to the standing master by the order of reference. The standing master shall file the findings and conclusions or order with the clerk of the court and serve copies on all parties. All contested proceedings before the standing master must be recorded. The standing master shall, at the expense of the district court, file a recording of the proceedings and of the evidence and the original exhibits. The cost of the preparation of a duplicate of the recording is the responsibility of the objecting party. The objecting party shall serve a copy of the duplicate recording on adverse parties at the objecting party's expense.

(2) Within 10 days after being served with notice of the filing of the findings and conclusions or order, any party may serve written specific objections upon the other parties or may apply to the court for an extension to serve. Application to the court for action upon the findings and conclusions or order and upon the filing of specific objections to the findings and conclusions or order must be by motion and upon notice as prescribed in Rule 6(d) of the Montana Rules of Civil Procedure. The court, after a hearing, may adopt the findings and conclusions or order and may modify, reject in whole or in part, receive further evidence, or recommit the findings and conclusions or order with instructions.

(3) The effect of a standing master's report is the same whether or not the parties have consented to the reference, but when the parties stipulate that a standing master's findings of fact are final, only questions of law arising upon the findings and conclusions may be considered.

Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 3, chapter 5, part 1, and the provisions of Title 3, chapter 5, part 1, apply to [sections 1 through 4].

Section 6. Effective date. [This act] is effective July 1, 1999.

- END -